



By Mark Newman, Fillmore Riley LLP

Municipal assessment in Manitoba: AN UPDATE

There have been a number of recent developments in Manitoba relating to property assessment issues.

LEGISLATIVE REVISIONS

In Manitoba the assessment cycle previously was a four-year cycle based upon a date of value or “reference year.”

The legislation has recently been amended to create a two-year cycle. The first year of this new cycle will be 2010 and the date of reference will now be April 1, 2008. For each new general assessment to occur every two years, the date will be April 1 of the first year of the previous assessment cycle. So, for example, for the new assessment to come into effect in

2012, the reference date will be April 1, 2010.

The City of Winnipeg has issued its new assessment roll and the appeal deadline in respect of 2010 assessments will be June 25, 2009.

The Province of Manitoba, which has responsibility for assessments outside of the City of Winnipeg, is in the process of issuing its new assessments. The provincial assessments are not issued at once, but are rolled out over a period of time.

Boards of Revision for both the City of Winnipeg and provincially governed assessments will commence hearings in the fall of 2009.

The City of Winnipeg has seen

unprecedented increases in value with single family residences seeing among the highest levels of increase. There is speculation that measures to mitigate against the extent of the increase in the City of Winnipeg may be adopted. Historically, these measures have included ‘phase ins.’ With the two-year cycle, ‘phase in’ becomes more difficult and one of the measures potentially available would be to ask the Province to amend the portioning legislation so as to reduce the portion of the assessment in respect of residential properties that is taxable, now 45%, to a lesser amount.

EQUITY

The Manitoba Court of Appeal has recently heard a case involving an argument concerning Section 18 of *The Municipal Assessment Act*, which provides as follows:

Presumption of validity of assessment

18. *Notwithstanding any other provision of this Act, an assessment is presumed to be properly made and the assessed value to be fixed at a fair and just amount where the assessed value bears a fair and just relation to the assessed values of other assessable property.*

This provision is often referred to as the “equity provision.” A Municipal Board decision had determined that the onus lay upon a property owner to prove an absence of equity in the assessment.

During the course of the hearing before the Manitoba Court of Appeal, the City of Winnipeg conceded that the onus lay upon the City, and not upon the property owner.

The case also raises the question of what classes of property should be compared for purposes of determining equity. Although this issue will not likely be determined in this case, in light of the City’s position on onus the issue will be a live one for future cases.

The Court of Appeal has reserved its decision in *Gardentree Village v. City of Winnipeg*. ■